

**Introduced by Senator Bowen**

February 21, 2003

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An act to amend Section 1203.10 of the Penal Code, and to amend Section 3201 of the Welfare and Institutions Code, relating to narcotic addicts.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as introduced, Bowen. Punishment: narcotic addicts.

(1) Existing law requires the probation officer of the county that has jurisdiction of an adult defendant, at the time of the plea or verdict of guilty, and when so directed by the court, to inquire into and report to the court regarding the antecedents, character, history, family environment, and offense of the defendant, and to file his or her report in writing in the records of the court. When directed by the court, the report is required to contain the probation officer's recommendation for or against the release of the defendant on probation.

This bill would require the probation officer to inquire into and report to the court regarding the defendant's eligibility for commitment as a narcotic addict, and to include his or her findings in the report filed with the court. By increasing the duties of probation officers, this bill would impose a state-mandated local program.

(2) Existing law provides for the involuntary civil commitment of narcotic addicts to institutions for treatment. Under this program, any person committed to the Director of Corrections for confinement in the narcotic detention, treatment, and rehabilitation facility, whose execution of sentence was suspended pending an involuntary commitment for a criminal conviction in superior court, and who has spent a period of time in confinement or in custody, excluding any time spent on outpatient status, equal to that which he or she would have

otherwise spent in state prison had sentence been executed, including application of good behavior and participation credit provisions, shall, upon reaching that accumulation of time, be released on parole under the jurisdiction of the Narcotic Addict Evaluation Authority. Existing law also provides that these good behavior and participation credit provisions, which authorize the Department of Corrections to reduce the term prescribed by  $\frac{1}{3}$  for good behavior and participation, shall not apply to any person whose crime was committed on or after January 1, 1983.

This bill would provide that any person described above who is committed to the Director of Corrections for confinement in the narcotic detention, treatment, and rehabilitation facility on or after January 1, 2004, shall be eligible for a  $\frac{1}{3}$  reduction in the period spent in custody or confinement, excluding time spent on outpatient status, for good behavior and participation.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1203.10 of the Penal Code is amended  
2 to read:  
3 1203.10. (a) At the time of the plea or verdict of guilty of any  
4 person over 18 years of age, the probation officer of the county of  
5 the jurisdiction of ~~said criminal~~ *the defendant* shall, when so  
6 directed by the court, inquire into the antecedents, character,  
7 history, family environment, and offense of ~~such person, and must~~  
8 *the defendant, including his or her eligibility for commitment as*  
9 *a narcotic addict pursuant to Article 2 (commencing with Section*



3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code. The probation officer shall report the same to the court and file his or her report in writing in the records of ~~such~~ the court. When directed, ~~his~~ the report shall contain ~~his~~ the probation officer's recommendation for or against the release ~~for such person~~ of the defendant on probation. If ~~any such person shall be the~~ defendant is released on probation and committed to the care of the probation officer, ~~such~~ the officer shall keep a complete and accurate record in ~~suitable books or other form~~ in writing of all of the following:

(1) The history of the case in court, ~~and of the~~.

(2) The name of the probation officer; and his or her act in connection with ~~said~~ the case; ~~also the~~.

(3) The age, sex, nativity, residence, education, habit of temperance, ~~whether married or single, and the marital status,~~ conduct, employment ~~and~~, occupation, ~~and~~ parents' occupation, and condition of ~~such~~ the person committed to his or her care during the term of ~~such~~ probation ~~and the~~.

(4) The result of ~~such~~ probation. ~~Such~~

(b) The record of ~~such~~ the probation officer shall ~~be and~~ constitute a part of the records of the court, and shall at all times be open to the inspection of the court or of any person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other heads of the police, unless otherwise ordered by the court. ~~Said books of~~ The records shall be furnished for the use of ~~said~~ the probation officer of ~~said~~ the county, and shall be paid for out of the county treasury.

(c) Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his or her possession relating to ~~such~~ the case.

SEC. 2. Section 3201 of the Welfare and Institutions Code is amended to read:

3201. (a) Except as otherwise provided in subdivisions (b) and (c) of this section, if a person committed pursuant to this chapter has not been discharged from the program prior to the expiration of 16 months, the Director of Corrections shall, on the expiration of ~~such~~ that period, return ~~him or her~~ the person to the court from which he or she was committed, ~~which~~ and the court shall discharge ~~him or her~~ the person from the program and order him or her returned to the court in which criminal proceedings

1 were adjourned, or the imposition of sentence suspended, prior to  
2 his or her commitment or certification to the superior court.

3 (b) Any other provision of this chapter notwithstanding, in any  
4 case in which a person was committed pursuant to Article 3  
5 (commencing with Section 3100), ~~such~~ *the* person shall be  
6 discharged no later than 12 months after his or her commitment.

7 (c) *(1) Notwithstanding subdivision (d) of Section 2931 of the*  
8 *Penal Code, any person described in paragraph (2), who is*  
9 *committed pursuant to Article 2 (commencing with Section 3050)*  
10 *on or after January 1, 2004, shall be eligible for a one-third*  
11 *reduction in the period spent in custody or confinement, excluding*  
12 *time spent on outpatient status, for good behavior and*  
13 *participation. Good behavior and participation credit is a*  
14 *privilege, not a right. Good behavior and participation credit shall*  
15 *be earned and may be forfeited pursuant to Article 2.5*  
16 *(commencing with Section 2930) of Chapter 7 of Title 1 of Part 3*  
17 *of the Penal Code.*

18 (2) Any person committed pursuant to Article 2 (commencing  
19 with Section 3050), whose execution of sentence in accordance  
20 with the provisions of Section 1170 of the Penal Code was  
21 suspended pending a commitment pursuant to Section 3051, who  
22 has spent, pursuant to this chapter, a period of time in confinement  
23 or in custody, excluding any time spent on outpatient status, equal  
24 to that which he or she would have otherwise spent in state prison  
25 had sentence been executed, including application of good  
26 behavior and participation credit ~~provisions of Article 2.5~~  
27 ~~(commencing with Section 2930) of Chapter 7 of Title 1 of Part 3~~  
28 ~~of the Penal Code~~ *earned pursuant to paragraph (1), shall, upon*  
29 ~~reaching such~~ *that* accumulation of time, be released on parole  
30 under the jurisdiction of the Narcotic Addict Evaluation Authority  
31 subject to all of the conditions imposed by the authority and  
32 subject to the provisions of Article 1 (commencing with Section  
33 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. ~~A person~~  
34 ~~on parole who violates the rules, regulations or conditions imposed~~  
35 ~~by the authority shall be subject to being retaken and returned to~~  
36 ~~the California Rehabilitation Center as prescribed in such rules,~~  
37 ~~regulations, or conditions and in accordance with the provisions of~~  
38 ~~Sections 3151 and 3152. At the termination of this period of parole~~  
39 ~~supervision or of custody in the California Rehabilitation Center,~~  
40 ~~the person shall be returned by the Director of Corrections to the~~

1 court from which such person was committed, which court shall  
 2 discharge him or her from the program and order him or her  
 3 returned to the court which suspended execution of such person's  
 4 sentence to state prison. Such court, notwithstanding any other  
 5 provision of law, shall suspend or terminate further proceedings in  
 6 the interest of justice, modify the sentence in the same manner as  
 7 if the commitment had been recalled pursuant to subdivision (d)  
 8 of Section 1170 of the Penal Code, or order execution of the  
 9 suspended sentence. Upon the ordering of the execution of such  
 10 sentence, the term imposed shall be deemed to have been served  
 11 in full.

12 (3) Except as otherwise provided in the preceding paragraph  
 13 (2), or as otherwise provided in Section 3200, the period of  
 14 commitment, including outpatient status, for persons committed  
 15 pursuant to Section 3051, ~~which~~ when that commitment is  
 16 subsequent to a criminal conviction for which execution of  
 17 sentence to state prison is suspended, shall equal the term imposed  
 18 under Section 1170 of the Penal Code, notwithstanding the good  
 19 time and participation credit provisions of *paragraph (1) or*  
 20 Article 2.5 (commencing with Section 2930) of Chapter 7 of Title  
 21 1 of Part 3 of ~~such code~~ the Penal Code. Upon reaching ~~such~~ that  
 22 period of time, ~~such~~ the person shall be released on parole under  
 23 the jurisdiction of the Narcotic Addict Evaluation Authority  
 24 subject to all of the conditions imposed by the authority and  
 25 subject to the provisions of Article 1 (commencing with Section  
 26 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. A

27 (4) A person on parole *pursuant to paragraph (2) or (3)* who  
 28 violates the rules, regulations, or conditions imposed by the  
 29 authority shall be subject to being retaken and returned to the  
 30 California Rehabilitation Center as prescribed in ~~such~~ those rules,  
 31 regulations, or conditions and in accordance with the provisions of  
 32 Sections 3151 and 3152. At the termination of this period of parole  
 33 supervision, or of custody in the California Rehabilitation Center,  
 34 the person shall be returned by the Director of Corrections to the  
 35 court from which he or she was committed, ~~which~~ and the court  
 36 shall discharge ~~such~~ the person from the program and order him  
 37 or her returned to the court ~~which~~ that suspended execution of the  
 38 person's sentence to state prison. ~~Such~~ The court, notwithstanding  
 39 any other provision of law, shall suspend or terminate further  
 40 proceedings in the interest of justice, modify the sentence in the

1 same manner as if the commitment had been recalled pursuant to  
2 subdivision (d) of Section 1170 of the Penal Code, or order  
3 execution of the suspended sentence. Upon the ordering of the  
4 execution of ~~such~~ *the* sentence, the term imposed shall be deemed  
5 to have been served in full.

6 (d) Nothing in this section shall preclude a person who has  
7 been discharged from the program from being recommitted under  
8 the program, irrespective of the periods of time of any previous  
9 commitments.

10 SEC. 3. Notwithstanding Section 17610 of the Government  
11 Code, if the Commission on State Mandates determines that this  
12 act contains costs mandated by the state, reimbursement to local  
13 agencies and school districts for those costs shall be made pursuant  
14 to Part 7 (commencing with Section 17500) of Division 4 of Title  
15 2 of the Government Code. If the statewide cost of the claim for  
16 reimbursement does not exceed one million dollars (\$1,000,000),  
17 reimbursement shall be made from the State Mandates Claims  
18 Fund.

